

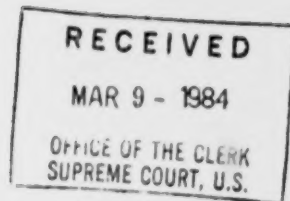
88-1555

NO.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1983



Hoop Valley Tribe of Indians,

Petitioner,

v.

Jessie Short, et al.,

Respondents.

MOTION FOR LEAVE TO FILE PETITION
APPENDIX IN PRESENT FORM

Pursuant to Rule 42, the Hoopa Valley Tribe of Indians, Petitioner in this proceeding, hereby moves for leave to file the Appendix to the Tribe's Petition For Writ of Certiorari in its present printed form despite the fact that part of the Appendix, taken from an appendix filed two years ago, appears to be set in 10-point type.

On March 3, 1984 the Hoopa Valley Tribe filed a Petition For Writ of Certiorari to the United States Court of Appeals for the Federal Circuit. The Appendix was separately bound since it numbers some 278 pages. Included in the Appendix at pages 24-151 are two earlier opinions in this case, opinions of the United States Court of Claims which are reported at 661 F.2d 150 (1981) and 202 Ct. Cl. 870 (1973). These were included pursuant to Rule 21(k)(ii) which relates to other opinions, findings, and conclusions rendered in the case.

On March 7, 1984 counsel for the Hoopa Valley Tribe was called by the Office of the Clerk of this Court and was notified

that those 128 pages of the Appendix are set in less than 11-point type. The remainder of the Appendix and the Petition was unobjectionable. For the reasons set forth below the Hoopa Valley Tribe respectfully requests leave to file the Appendix in its present form:

1. The Appendix pages at issue are exact reproductions of the Appendix to the Tribe's Petition at an earlier stage in this case, Hoopa Valley Tribe of Indians v. Jessie Short, October Term 1981, No. 81-1371, cert. denied, 455 U.S. 1034 (1982). The type size and text contained on each of pages A1-16 and B1-112 of the Appendix in No. 81-1371 is precisely the same as that found on pages 24-151 in the Petition Appendix currently at issue. Our only change was to renumber the pages. The Appendix and the Petition in No. 81-1371 were docketed and, to the best of our knowledge, were received without objection by the Clerk of this Court. Since the present pages are made from the same originals counsel in good faith believed they were acceptable.

2. The financial burden of again typesetting and binding the early Court of Claims' opinion would exceed \$4,000.00. These are not opinions of the Court of Appeals for the Federal Circuit, whose decision is sought to be reviewed here. The Court of Appeals ruling is unquestionably set in 11-point type. Under these circumstances, the hardship to the Tribe imposed by re-printing appears to outweigh the need strictly to distinguish between typed matter of 11-point size and that which is between 10 and 11-point in size.

RESPECTFULLY SUBMITTED this 7th day of March, 1984.

ZIONTZ, PIRTLE, MORISSET,
ERNSTOFF & CHESTNUT

By: Thomas P. Schilder
Thomas P. Schilder

SAP/030784
LT300/MOT/LEAVE

Attorney of Record for the
Hoopa Valley Tribe of Indians